

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DIONTAE JOHAN DUNCAN,)	Case No.: 1:23-cv-01692 JLT EPG
)	
Plaintiff,)	ORDER ADOPTING FINDINGS AND
)	RECOMMENDATIONS, DISMISSING THE
v.)	ACTION WITHOUT PREJUDICE, AND
)	DIRECTING THE CLERK OF COURT TO CLOSE
T. CISNEROS, et al.,)	THIS CASE
)	
Defendants.)	(Doc. 14)
)	
)	

Diontae Johan Duncan seeks to hold the defendants liable for violations of his civil rights at California's Substance Abuse Treatment Facility at Corcoran and Salinas Valley State Prison. (*See* Doc. 1.) The Court screened Plaintiff's complaint pursuant to 28 U.S.C. § 1915A(a) and found he failed to state a cognizable claim. (Doc. 11.) The Court provided relevant legal standards and granted Plaintiff the opportunity to file an amended complaint; stand on his complaint, though warned it may be dismissed for failure to state a claim; or file a notice of voluntarily dismissal. (*See id.* at 3-11.) The Court also informed Plaintiff the failure to respond would result in dismissal of the action. (*Id.* at 11.)

After Plaintiff failed to respond to the Screening Order in any manner, the magistrate judge found Plaintiff failed to obey the Court's order and failed to prosecute the action. (Doc. 14 at 1-2.) The magistrate judge found dismissal of the action without prejudice was appropriate, after considering the factors identified by the Ninth Circuit in *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002). (*Id.* at 2-3.) The Court served these Findings and Recommendations on Plaintiff and

1 notified him at that any objections were due within 30 days. (*Id.* at 4.) The Court advised him that the
2 “[f]ailure to file objections within the specified time may result in the waiver of rights on appeal.”
3 (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file
4 objections, and the time to do so expired.

5 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
6 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations are
7 supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 8 1. The Findings and Recommendations issued on October 23, 2024 (Doc. 14) are
9 **ADOPTED** in full.
- 10 2. This action is **DISMISSED** without prejudice for Plaintiff’s failure to obey the Court’s
11 order and failure to prosecute.
- 12 3. The Clerk of Court is directed to close this case.

13
14 IT IS SO ORDERED.

15 Dated: **December 6, 2024**


UNITED STATES DISTRICT JUDGE